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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,697	02/04/2004	Tomonori Hirose	FUJR 20,908	3933
26304 7590 07/22/2008 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER				
MARANDI, JAMES R				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
07/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/771,697

Applicant(s)

HIROSE, TOMONORI

Examiner

JAMES R. MARANDI

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Specification

1. The newly amended title is acceptable, therefore, the objection to title cited in Office Action of 4/14/2008 is hereby withdrawn.

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Claims 4 and 14 has been cancelled by applicant.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
 - b. Ascertaining the differences between the prior art and the claims in issue;
 - c. Resolving the level of ordinary skill in the pertinent art; and
 - d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.
3. Claims 1- 3, 10- 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over A. Diwan. USPN 6,801,936 (hereinafter "Diwan") in view of J.C.I. Chuang et al., "Pricing Multicast Communication: A Cost Based Approach", (hereinafter "Chuang").

Regarding claims 1, 10, 13, and 15 Diwan discloses a method, process, system, and computer software

for selectively relaying video information (Abstract, Fig. 1), comprising:

receiving means (190 receives content from providers 180 and also receives requests from subscribers network 175) **for receiving a video stream delivered via a first network (180);**

information analysis means for analyzing information about the video stream received by the receiving means. Agent 190 takes request from the subscribers 105-125 (Col. 3, lines 47- 49), and packages the information based on user requests as reflected in Fig. 3 (Col. 4, lines 38- 41);

decision means for determining whether or not a result of analysis by the information analysis means fulfills a predetermined criterion (314),

to judge whether to permit delivery (316) of the video stream received by the receiving means to a second network (Col. 4, lines 38- 67 and Col. 5, lines 1- 12); and

transmitting means (190 transmits to subscribers network 175) for transmitting, to a plurality of requesting clients (105, 110, 115, 120, 125) on the second network (175), the video stream of which the delivery to the second network has been permitted by the decision means (Col. 4, lines 38- 67 and Col. 5, lines 1- 12),

Diwan does not explicitly disclose **wherein the video stream is unicast to each of the requesting clients if the number thereof is equal to or smaller than a predetermined number, and wherein the video stream is multicast to the plurality of requesting clients if the number thereof is greater than the predetermined number.**

However Chuang, in an analogous art, substantially discloses **wherein the video stream is unicast to each of the requesting clients if the number thereof is equal to or smaller than a predetermined number, and wherein the video stream is multicast to the plurality of requesting clients if the number thereof is greater than the predetermined number.** (Pages 290-291, section 3.1)

Therefore, it would have been obvious to one of ordinary skills, at the time of invention, to modify the system of Diwan with Chuang's teaching in order to optimize the network use.

Regarding claim 2, **wherein the decision means permits the delivery of the video stream for which a request has been output from a device** (105, 110, 115, 120, and 125) **connected to the second network** (175). (Col. 2, lines 66-67, and Col. 3, lines 1-3)

Regarding claim 3, **wherein the receiving means receives the video stream** (from 145, 150, 155) **which has been multicast** (col. 3, lines 22-23) **on the first network** (180).

Regarding claim 5, **wherein the receiving means receives the video stream which has been unicast via the first network**. Diwan disclose that "...the information providers 145-155 may generate multicast messages" (Col. 3, lines 29- 30). At the same time, Diwan discloses several internet protocols for the interactions between 190 and information providers 145- 155, Within such networks if a provider chooses to only communicate with one receiver (190), this by definition is point to point (unicast).

Regarding claim 8, **wherein the information analysis means analyzes video content of the video stream.** Diwan analyses the content from the information providers so it can satisfy the users' specific requests as reflected in 314 (Col. 4, lines 52- 60).

Regarding claim 11, **wherein the video selection server has a multi-stage configuration such that the video stream transmitted from a preceding-stage video selection server is delivered to a succeeding-stage video selection server.** (Col. 3, lines 49- 55)

Claim 12 is rejected as claim 11.

4. Claims 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over A. Diwan in view of Chuang , in further view of V. Dureau, US Patent Application Publication No. 2003/0135860 (hereinafter "Dureau").

The system of Diwan and Chuang fails to explicitly disclose **wherein the information analysis means analyzes**

- **A transmission protocol** (claim 6)
- **An encoding** (claim 7)

of the video stream.

However, Dureau, in an analogous art, substantially discloses **wherein the information analysis means analyzes**

- **A transmission protocol** (claim 6), paragraph [34]
- **An encoding** (claim 7), paragraph [35]

of the video stream.

Therefor, it would have been obvious to one of ordinary skills, at the time of invention, to modify the system of Diwan and Chuang with Dureau's teaching in order to offer further flexibility and support for various protocols that may be used in the network.

Regarding claim 9, the system of Diwan and Chuang fails to explicitly disclose **wherein, if the received video stream contains a plurality of videos, the receiving means separates the received video stream into a plurality of video streams corresponding to the respective videos.**

However, Dureau substantially discloses **wherein, if the received video stream contains a plurality of videos, the receiving means separates the received video stream into a plurality of video streams corresponding to the respective videos.** (Col. 1, Paragraphs [8], [9]).

Therefor, it would have been obvious to one of ordinary skills, at the time of invention, to modify the system of Diwan and Chuang with Dureau's teaching in order to offer further processing options for received content.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Marandi/

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623